

Public Document Pack



**North
Northamptonshire
Council**


Meeting: Licensing Sub-Committee
Date: Friday 15th December, 2023
Time: 1.20 pm
Venue: Remote meeting MS Teams

To members of the Licensing Sub-Committee (Summary Review of Premises Licence)

Councillors Jonathan Ekins, Jennie Bone and Lee Wilkes

Agenda			
Item	Subject	Presenting Officer	Page no.
01	Apologies for absence		
02	Members' Declarations of Interest (if any)		
03	Summary Review of Premises Licence		3 - 18
04	Close of meeting		


Adele Wylie, Monitoring Officer
North Northamptonshire Council




Proper Officer
14 December 2023

This agenda has been published by Democratic Services.

Committee Administrator:

 01933 231 521

 Carol.Mundy@northnorthants.gov.uk

Members' Declarations of Interest

Members are reminded of their duty to ensure they abide by the approved Member Code of Conduct whilst undertaking their role as a Councillor. Where a matter arises at a meeting which **relates to** a Disclosable Pecuniary Interest, you must declare the interest, not participate in any discussion or vote on the matter and must not remain in the room unless granted a dispensation.

Where a matter arises at a meeting which **relates to** other Registerable Interests, you must declare the interest. You may speak on the matter only if members of the public are also allowed to speak at the meeting but must not take part in any vote on the matter unless you have been granted a dispensation.

Where a matter arises at a meeting which **relates to** your own financial interest (and is not a Disclosable Pecuniary Interest) or **relates to** a financial interest of a relative, friend or close associate, you must disclose the interest and not vote on the matter unless granted a dispensation. You may speak on the matter only if members of the public are also allowed to speak at the meeting.

Members are reminded that they should continue to adhere to the Council's approved rules and protocols during the conduct of meetings. These are contained in the Council's approved Constitution.

If Members have any queries as to whether a Declaration of Interest should be made please contact the Monitoring Officer at – monitoringofficer@northnorthants.gov.uk

Licensing and Appeals Sub Committee

Report Title	Licensing Act 2003 – Summary Review of Premises Licence – Representation against Interim Measures	
Report Author	Iain Smith Assistant Director of Regulatory Services iain.smith@northnorthants.gov.uk	
Contributors/Checkers/Approvers		
North MO		
North S151		
Other Director/SME		

List of Appendices

- Appendix A - Licensing Act 2003 Application for Review**
Appendix B – Police Certificate
Appendix C - Interim Steps decision notice
Appendix D - Representation

1. Purpose of Report

- 1.1 To consider a representation against interim measures implemented by the licensing panel on 29 November 2023 following application by Northamptonshire Police for summary review of the Premises Licence for Quality Food 4 You trading as Braces News, 99 -101 Montagu Street, Kettering.

2. Executive Summary

- 2.1 An application for summary review of the premises licence for Quality Food 4 You trading as Braces News, 99-101 Montagu Street, Kettering was received from Northamptonshire Police at 11.22 a.m on Tuesday 28 November 2023. A copy of the application and certificate is attached at Appendix A and Appendix B.
- 2.2 The summary review process is an expedited process within the Licensing Act 2003 where there must be evidence of serious crime or serious violence or both.
- 2.3 On 29 November 2023 an interim steps hearing was held to consider the application and the decision was taken to suspend the premises licence. The decision notice is attached at Appendix C.
- 2.4 This Licensing Act 2003 permits the Licensee to submit representation against those interim steps at any point between that decision and the full review hearing. Where such representations are received, a further hearing must be

held within 48 hours of receipt to consider the representation. A representation has been received as at Appendix D

2.5 This hearing is to consider that representation.

3. Recommendations

3.1 The Committee is asked to consider the representation from the Licensee.

3.2 At the hearing the licensing authority must:

- consider whether the interim steps are appropriate for the promotion of the licensing objectives; and
- determine whether to withdraw or modify the steps taken.

3.3 When considering the case the licensing authority must take into account:

- the senior officer's certificate that accompanied the application;
- the chief officer's representations (if any); and
- any representations made by the premises licence holder. and, if it considers that the application meets the requirements for summary review, to consider what action, if any, to take immediately with regards to the premises licence.

4. Report Background

4.1 An Application for Summary Review of the Premises Licence for Quality Food 4 You trading as Braces News, 99 - 101 Montagu Street, Kettering was received from Northamptonshire Police. A copy of the certificate and the application required under the legislation are attached.

4.2 The application is submitted under the amendments to the Licensing Act 2003 by the Violent Crime Reduction Act 2006. This power provides an expedited review process in certain circumstances.

4.3 The Committee must be satisfied that there is evidence of serious crime or serious violence or both. The crime must be sufficiently serious that an individual who is 21 years of age or over with no previous convictions could reasonably be expected to be sentenced to imprisonment for 3 years or more; or involves the use of violence, results in substantial financial gain or is conduct by a large number of persons in pursuit of a common purpose. The certificate and application described this evidence.

4.4 Any decision is effective from the hearing.

4.5 An interim steps hearing was held on 29 November 2023 and the Licensing Panel decided to suspend the premises licence based on the information before them.

4.6 A full hearing review is to be held on 21 December 2023.

4.7 On Wednesday 13 December 2023, Northamptonshire Police advised both the Authority and the Licensee that the information provided in the certificate was

factually incorrect as the number of cigaretted actually seized was significantly less than that claimed in the certificate.

- 4.8 A representation against the interim steps decision has now been received from the licensee.

5. Issues and Choices

- 5.1 Having considered the representation from the licence holder the Panel must consider the options available to it as detailed above and take such action as it considers appropriate.

6 Implications (including financial implications)

6.1 Resources and Financial

- 6.1.1 There are no resource or financial implications in relation to this report

6.2 Legal

- 6.2.1 The Summary review process is detailed within Section 53A to 53D of the Licensing Act 2003 and Chapter 12 of the Section 182 Guidance issued under the Licensing Act 2003.

- 6.2.2 There is no right to appeal against the decision of the Panel against any decisions made at these interim hearings.

6.3 Risk

- 6.3.1 There are no significant risks arising from the proposed recommendations in this report.

6.4 Consultation

- 6.4.1 There is no legal consultation process relating to this particular process.

6.5 Consideration by Scrutiny

- 6.5.1 Not considered

6.6 Climate Impact

- 6.6.1 No climate impact.

6.7 Community Impact

6.7.1 A licensing authority must carry out its functions under The Licensing Act 2003 with a view to promoting the licensing objectives.

The licensing objectives are—

- (a) the prevention of crime and disorder;
- (b) public safety;
- (c) the prevention of public nuisance; and
- (d) the protection of children from harm.

7 Background Papers

Licensing Act 2003

Home Office Section 53A-C Licensing Act 2003 - Summary Review Guidance

Section 182 guidance issued under the Licensing Act 2003

FORM FOR APPLYING FOR A SUMMARY LICENCE REVIEW

[Insert name and address of relevant licensing authority and its reference number (optional)]

North Northamptonshire Council
41 Meadow Road
Kettering
NN16 8TL

Application for the review of a premises licence under section 53A of the Licensing Act 2003 (premises associated with serious crime or disorder)

PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST

Before completing this form please read the guidance notes at the end of the form. If you are completing the form by hand please write legibly in block capitals. In all cases ensure that your answers are inside the boxes and written in black ink. **Use additional sheets if necessary.**

I Police Constable 113 D Bryan [on behalf of] the chief officer of police for the Kettering police area apply for the review of a premises licence under section 53A of the Licensing Act 2003.

1. Premises details:

Postal address of premises, or if none or not known, ordnance survey map reference or description:

**Quality Food 4 You Ltd (Trading as Braces)
99 Montagu Street**

Post town: Kettering

Post code (if known): **NN16 8XJ**

2. Premises licence details:

Name of premises licence holder (if known): Quality Food 4 You Ltd

Number of premises licence holder (if known): 19/00910/LAVDPS

3. Certificate under section 53A(1)(b) of the Licensing Act 2003 [Please read guidance note 1]:


I confirm that a certificate has been given by a senior member of the police force for the police area above that in his opinion the above premises are associated with serious crime or disorder or both, and the certificate accompanies this application.

(Please tick the box to confirm)

4. Details of association of the above premises with serious crime, serious disorder or both:

[Please read guidance note 2]

Please see attached signed certificate and attached images.

Signature of applicant: 
Date: 28.11.23
Capacity: Police Licensing Officer

Contact details for matters concerning this application:

Address: **PC 113 D Bryan**
Wellingborough Police Station
Midland Road
Wellingborough
NN8 1HF

Telephone number(s): 101 EXT 434409 Mobile 07766 768576

Email: david.bryan@northants.police.uk

Notes for guidance:

1. A certificate of the kind mentioned in the form must accompany the application in order for it to be valid under the terms of the Licensing Act 2003. The certificate must explicitly state the senior officer's opinion that the premises in question are associated with serious crime, serious disorder or both.

Serious crime is defined by reference to section 81 of the Regulation of Investigatory Powers Act 2000. In summary, it means:

- conduct that amounts to one or more criminal offences for which a person who has attained the age of eighteen and has no previous convictions could reasonably be expected to be sentenced to imprisonment for a term of three years or more; or

- conduct that amounts to one or more criminal offences and involves the use of violence, results in substantial financial gain or is conduct by a large number of persons in pursuit of a common purpose.

Serious disorder is not defined in legislation, and so bears its ordinary English meaning.

2. Briefly describe the circumstances giving rise to the opinion that the above premises are associated with serious crime, serious disorder, or both.



CERTIFICATE

Under section 53a(1)(b) of the
Licensing Act 2003

I **Steve FREEMAN** am a Superintendent (or above) in Northamptonshire Police and hereby certify that in my opinion the premises described below are associated with:

Serious crime

Premises Details:

Quality Food 4 You Ltd (Trading as Braces)

99 Montagu Street

Kettering

Northamptonshire

Post Code: NN16 8XJ

I am giving this certificate because I am of the opinion that other procedures under the Licensing Act 2003 are inappropriate in this case because:

Serious crime: The tests to determine the kinds of conduct that amount to serious crime are set out in section 81(2) and (3) (a) and (b) of the Regulation of Investigatory Powers Act 2000. Those tests are that the conduct: (a) constitutes an offence for which a person who is 21 years of age or over with no previous convictions could reasonably be expected to be sentenced to imprisonment for 3 years or more; or (b) Involves the use of violence, **results in substantial financial gain** or is conduct by a large number of persons in pursuit of a common purpose.

On the 8th of November 2023 Officers from Northamptonshire Police and North Northamptonshire Council Trading Standards Department attended Braces News

and Off-Licence during an intelligence led operation regarding the criminal activity of the sale and/or storage of illicit tobacco products.

In the kitchen area of the back store room a conceal compartment (hide) was discovered. Within the hide the following was discovered;

5104 Packets of duty not paid cigarettes, estimated value based on a packet of legal duty paid cigarettes is £74,518.40.

81 Packets of 50g Hand Rolling Tobacco estimated value based on a legal duty paid packet of HRT is £2721.60.

The total being £77,240.00

Tobacco Duty on a single packet of cigarettes is 16.5% of the retail price plus £5.89, TSD used the figure of a packet of duty paid cigarettes being £14.60. This would mean the revenue on a single packet would be £8.29.

The revenue lost due to no duty being paid on the smuggled cigarettes equals £42,312.16.

The duty on HRT is £351.03 per 1000 grammes, the total in grammes seized was 4050, the estimated lost revenue £1579.00

The total duty not paid is estimated at £44,891.16

Section 144 of the Licensing Act 2003 A person commits an offence if he knowingly keeps or allows to be kept, on any relevant premises, any goods which have been imported without payment of duty or which have otherwise been unlawfully imported.

In addition point 11:27 of the Statutory section 182 guidance that accompanies the Licensing Act 2003 details certain criminal activity that may arise in connection with licensed premises which should be treated as particularly serious, one of the activities listed is the sale or storage of smuggled tobacco and alcohol.

Signed:



X452

Date: 24. 11. 23



Licensing and Appeals Sub Committee

Wednesday, 29th November 2023 at 2:00pm via MS Teams

To consider if any interim steps are required following application by Northamptonshire Police for summary review of the Premises Licence for Quality Food 4 You trading as Braces News, 99 -101 Montagu Street, Kettering.

Attendees:

Cllr Ekins (Chair)

Cllr Bone

Cllr Wilkes

Louise Delavaloire – Legal Advisor

Russell Howell – Licensing Manager

PC David Bryan – Northamptonshire Police

Carol Munday – Committee Administrator

An application for summary review of the premises licence for Quality Food 4 You trading as Braces News, 99-101 Montagu Street, Kettering was received from Northamptonshire Police at 11.22 a.m on Tuesday 28 November 2023.

The summary review process is an expedited process within the Licensing Act 2003 where there must be evidence of serious crime or serious violence or both.

The process has two stages, an initial interim steps consideration which must be carried out within 48 hours of the application being received followed by a formal review hearing within 28 days of the application being received.

This hearing has been held to consider the interim steps.

The sub-committee considered Northamptonshire Police's application for summary review and the accompanying certificate of the relevant Superintendent under section 53a(1)(b) of the Licensing Act 2003.

The sub-committee are satisfied that the test for utilising the summary review process as the alleged criminal activity detailed results in substantial financial gain.

There serious concerns that the licensing objectives in relation to the prevention of crime and disorder and public safety are being undermined by criminal activity at the licensed premises.

The sub-committee concludes that it is necessary to implement the interim step of suspending the premises licence pending the full review hearing.

The review hearing will take place at 09:30am on 21st December 2023 at Swanspool Annexe, Doddington Road, Wellingborough, Northants, NN8 1BP.

Russell Howell

From: Duncan Craig <dcraig@st-philips.com>
Sent: 13 December 2023 17:27
To: Russell Howell; KBC Kettering Licensing
Subject: RE: Braces News, 99 Montagu Street, Kettering, Northamptonshire, NN16 0DE

[CAUTION: EXTERNAL EMAIL] This email originated from outside of the organisation. Do not click links or open attachments unless you recognise the sender and know the content is safe.

Dear Licensing

I write further to the expedited review proceedings in respect of the above; I represent the holder of the premises licence.

Following an application under section 53A of the Licensing Act 2003 ('the Act') by Northamptonshire Police dated 28th November 2023, North Northamptonshire Council's Licensing and Appeals Sub-Committee decided at a hearing on 29th November 2023 to impose the interim step of suspension against the premises licence under section 53B(3)(d) of the Act.

I am instructed to make representations forthwith against that suspension of my client's premises licence via section 53B(6) of the Act, which requires a hearing to determine those representations to be heard within 48 hours of this email.

Please could you notify me of the time, date and mode of hearing as soon as possible.

I am sorry I was not able to send this email earlier today, but I was awaiting a substantive response from the applicant, Northamptonshire Police, in relation to a matter I had raised with them, which I only received in the last hour or so.

Many thanks.

Kind regards,

Duncan Craig
Barrister

DD: +44 (0)121 246 2175 | M: 07544 987300 | Email: dcraig@st-philips.com

St Philips Chambers

Birmingham | 55 Temple Row, Birmingham, B2 5LS | T: 0121 246 0200
Leeds | St Paul's House, 29 Park Square, Leeds, LS1 2PQ | T: 0113 244 6691



St Philips Barristers are regulated by the Bar Standards Board.

DUNCAN CRAIG



The information contained in this email is intended only for the person or the entity to which it is addressed and may contain confidential and/or privileged material. If you are not the intended recipient of this e-mail, the use of this information or any disclosure, copying or distribution is prohibited and may be unlawful. Email transmission cannot be guaranteed to be secure or error free. Therefore, we do not represent that this information is complete or accurate and it should not be relied upon as such. If you received this in error, please contact the sender and delete the material from any computer. Although the sender endeavours to maintain a computer virus free network, the sender does not warrant that this transmission is virus free and will not be liable for any damages resulting from any virus transmitted.

